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NOMINATION—NATIONAL TRANSPORTATION SAFETY BOARD

ORIGINAL

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

COMPLETED

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

NOMINATION OF

ADM. DONALD D. ENGEN, TO BE A MEMBER,

NATIONAL TRANSPORTATION SAFETY BOARD

JUNE 9, 1982

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NOMINATION—NATIONAL TRANSPORTATION SAFETY BOARD

WEDNESDAY, JUNE 9, 1982

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 9:33 a.m., in room 235, Russell Senate Office Building, Hon. Nancy L. Kassebaum presiding.

Staff members assigned to this hearing: Anne M. Gavaghan, Staff Director, and Charles M. Barclay, minority staff counsel.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. The hearing will come to order.

It is a pleasure to welcome you this morning, Admiral Engen. I know that you are very familiar that the NTSB is not a regulatory agency and that its reputation stems from its excellence in accident investigation. Certainly the Board has been sorely tested in this past year. For this reason, the Commerce Committee has continually pushed for the appointment of highly qualified men and women to this agency. The unfortunate series of accidents earlier this year serves to underscore the importance of the highest quality of service to this board.

I know also that despite staffing and budget limitations, the Board has devoted much effort to determining the causes and seeking new ways to reduce traffic fatalities which claim approximately 50,000 lives a year.

In this context, I congratulate the administration on selecting you for this job. Your impressive record with the Navy and in the aircraft industry, which I think is a very vital component of the work of the NTSB, demonstrates the background and skills which we have sought to find in our confirmation of nominees to the NTSB.

If you would like to make a statement at this point, I would be happy to have you do so, but first it is a pleasure to welcome Senator Warner.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM VIRGINIA

Senator WARNER. Thank you, Senator Kassebaum.

I come back into this room with a touch of nostalgia having spent 2 very happy years here.

Madam Chairman, I am privileged to introduce Admiral Engen today. When I had the opportunity to serve the country as Secretary of the Navy, he was one of my principal assistants, and it is somewhat of a reunion to see him again this morning and to introduce him to the committee.

I wonder if I might do it with just a little personal story. It was 1944 when I went into the Navy to become a flier, and on my first flight we had the old yellow biplane, you remember?

Admiral ENGEN. Yes, sir.

Senator WARNER. And the instructor said, the only thing I want you to remember, young man, is that there is no such thing as an old, bold pilot.

Well, I think you are the exception. Indeed, this distinguished American is maybe not so old, but he certainly is a bold pilot. In addition to having piloted over 160 different models of aircraft ranging from gliders, helicopters, and experimental aircraft to four-engine jets, he has served in various positions, including captain of U.S. Navy ships operating throughout the world.

Admiral Engen's 39 years of experience are directly related to all aspects of aviation and maritime operations and safety, including development and testing all-weather operations, accident investigation, accident prevention, establishing safety policy and rulemaking.

Admiral Engen received a bachelor of science degree in business administration from George Washington University after undergraduate work from UCLA and the University of Rhode Island. He also graduated with distinction from the U.S. Naval War College and Empire Test Pilots School in Farnborough, England.

He entered the Navy in 1942. Between 1942 and 1952 he served in a succession of tours in fighter squadrons during two wars. He was awarded the Navy Cross, the Distinguished Flying Cross, and three Air Medals for actions in combat.

During conversations with Admiral Engen, he has told me that he feels as though he has been training for a position on the NTSB for 39 years. Anyone who examines his record of achievements would certainly agree.

He retired from the Navy in 1978, his final position being Deputy Commander in Chief, U.S. Atlantic Command, and U.S. Atlantic Fleet. He is currently serving as the senior associate in Ketron, Inc.

It gives me a great pleasure, Madam Chairman, to introduce this distinguished American and recommend him unequivocally for this position.

Senator KASSEBAUM. Thank you very much, Senator Warner.

Admiral Engen?

Senator WARNER. Admiral, as the instructor told you on the day you soloed, you are on your own.

Good luck.

STATEMENT OF ADM. DONALD D. ENGEN

Admiral ENGEN. Thank you, Senator, very much. Thank you, sir.

Chairman Kassebaum, I feel very honored to be nominated by the President for a position as member on the National Transpor-

tation Safety Board, and if confirmed, I would welcome the challenge and would serve to the utmost of my ability.

I think I will stop right there.

[The biographical sketch and questions and answers follow:]

BIOGRAPHICAL SKETCH OF DONALD DAVENPORT ENGEN

Address: 809 Duke Street, Alexandria, VA 22314.

Date and place of birth: May 28, 1924, Pomona, California.

Marital status: Married to Mary Baker Engen.

Names and ages of children: D. Travis Engen (38), Candace L. Engen Ellis (37), Christopher W. Engen (34), Charles T. Engen (23).

Education: Pasadena Junior College—no degree—1939-42; UCLA—no degree—1946; Empire Test Pilots School—graduated—1953; University of Rhode Island—no degree—1965; U.S. Naval War College—graduated with distinction—1966; George Washington University—BS, Business Administation—1968.

Employment record: Aviation Cadet, 1942-1943; Ensign to Lieutenant, U.S. Navy, 1943-1945; Passenger Agent, UAL, Long Beach, CA, 1946; Test Engineer, CONVAIR, Bellflower, CA, 1946; Lieutenant to Vice Admiral, U.S. Navy, 1946-1978; General Manager, Piper Aircraft Corporation, Lakeland, FA, 1978-1980; Senior Associate, Ketron, Inc., Arlington, VA, 1980-Present.

Memberships: Society of Experimental Test Pilots, member, since 1957; Experimental Aircraft Association, member, since 1973; Aircraft Owners and Pilots Association, member, since 1973; Lakeland Florida Chamber of Commerce, member, 1979; Burnside-Ott, unpaid advisor, since 1980; Tail Hook Association, member, since 1980; National Aviation Club, member, since 1981; Aero Club, Washington, D.C., member since 1981.

Political affiliations: Registered Republican voter. No offices held. Contributions to Republican party 1979—$25, 1980—$50, 1981—$200.

Honors and awards: Navy Cross—heroism in action WW II—1944; Distinguished Flying Cross—combat action—1944; Air Medal, 3 awards—combat action—1944-1950; Legion of Merit, actions as Asst. DCNO Strategic Plans—1971; Legion of Merit, meritorious service as CTF 60—1972; Distinguished Service Medal, distinguished service as Deputy Commander in Chief, U.S. Naval Forces, Europe—1976; Defense Meritorious Service Medal, metitorious service as Deputy Commander in Chief U.S. Atlantic Command—1976-1978; Distinguished Service Medal, distinguished service as Deputy Commander in Chief, U.S. Atlantic Fleet—1976-1978.

Published writing: Supersonic Flight, an article—Naval Aviation News, 1957; The Importance of Spins, an article—Naval Aviation Safety, 1958; An Elevating Experience, an article—Naval Aviation Museum, 1982.

QUESTIONS OF SENATOR CANNON AND THE ANSWERS THERETO

Question 1. Mr. Engen, you have a most impressive background and certainly will add an expertise at the NTSB that will be useful.

I note that you worked at Piper Aircraft with Administrator Helms and it is my understanding that the Administrator recommended your nomination. How will this affect your decisions about recommendations that are critical of FAA?

Answer. I have known Administrator Helms for many years, since we were test pilots together. I have also known and worked for Administrator Shear. I can assure you that these gentlemen and I understand the ethics of the situation in the absolute sense. They know me well enough to expect nothing less than complete objectivity in everything that I do. Our prior association will not affect my decisions about recommendations that might be critical of the FAA or the Maritime Administration.

Question 2. Two complaints we have heard about in the past, and which continue to be a problem from reports I get, are that (1) Some Board members delay recommendations for numerous grammatical and stylistic changes of a very minor nature, and (2) some Board members attempt to interfere with the Chairman's administrative duties rather than concentrating on policy issues. What is your view of the proper role of a Board member?

Answer: With respect to the two complaints that you have heard of the NTSB, my view of the role of a Board member is: (1) to ensure prompt and accurate recommendations and (2) to be supportive of the Chairman in his administrative responsibilities. I feel that timeliness of reporting is key to being effective. My background is one of being an operator, a doer. I am action oriented and I believe in making

things happen. I would not interfere with the Chairman's responsibilities, particularly his administrative duties.

Question 3. I have been contacted by several people concerned with the FAA announcement several months ago about a plan called "Regulation by Objective." No one seems to have gotten much detail out of FAA as yet about the plan, but the major concern I have heard expressed is that it could amount to the users making up their own safety standards and the FAA approving any plan which met the stated goal of being "safe." These fears may be unfounded, but a lack of Federal standards and specific requirements in the safety regulations would concern me very much. The various methods of changing DC 10 engines leaps to mind. Have you examined this proposal as yet, and will you make an effort to see that the NTSB takes a position on this proposal before it is implemented?

Answer. I have not yet had the opportunity to hear a definition of "Regulation by Objective." It seems to me, from what I do understand, that the term applies to one method of approaching the Federal Regulatory Act. In this context I support the intent to reduce regulatory complication and specifically the review of existing regulations with a view toward combining, simplifying and reducing them. Having said that, I would add that standards are key to good and safe operation. I believe that safety standards should be fully understandable and irreducible. I support reduction in complexity of government regulation so long as standards are maintained. As a member of the NTSB, I will examine all transportation related efforts which might reduce safety standards and encourage my fellow Board members to join me in taking an early postion on such matters.

Question 4. NTSB has done a much better job in the last few years of following up on its recommendations, but it has never "prioritized" its recommendations. Considering that we have limited resources in the real world, do you think there would be any merit in the Board's assigning relative priorities to its various recommendations for each mode?

Answer. I think that there is merit in considering assigning relative priorities to NTSB recommendations for each mode of transportation. Areas that I would want to examine before establishing such a priority system are: definition of the priority system; analysis of past performance in each mode of transportation toward implementing recommendations; and, and analysis of the impact that such a system might have upon all concerned.

Senator KASSEBAUM. Thank you.

I have some questions that I would like to ask you.

One, in light of your work in the Navy, I believe you were involved in some investigative work and wonder if you might share with us some of your thoughts on whether the procedures and techniques were different, whether you see this carrying on into NTSB or any changes that you feel might be beneficial at NTSB.

Admiral ENGEN. I think, perhaps, that is best answered by pointing out the difference in personnel make up of the Boards, the Accident Investigating Board in the military and the National Transportation Safety Board.

In the military, in aviation as well as in maritime, the Board is made up of operators, people who have done the things that may have caused the accident or are familiar with what that person was doing at the time of the accident. And, if the operator was killed or no longer around, that Board, through its intimate familiarity with the human factors involved and the actual evolution has insight that is might not otherwise be there.

The Board also is made up—has a member, a flight surgeon. So it is very human factors oriented.

In the NTSB, it seems to me that there are highly technical people, fully qualified in all respects who understand a series of accidents, having had the benefit of perhaps reviewing many accidents, and they have insights that maybe the other Board did not have.

It is my personal opinion that perhaps the NTSB does not have the way of getting "into the mind" of the person who caused the accident the way the military does. That is just a personal observation.

This is not to cast any aspersions on the NTSB in any way. You know, it is a highly technical and in a sense a better qualified staff for investigating accidents than is readily available in the military.

Senator KASSEBAUM. Well, it is interesting that you make that distinction because this committee has often expressed to NTSB the belief that perhaps more emphasis should be given to human factors in the case of an accident, such as fatigue or motivation, rather than just on the technical aspects of the investigation.

But given the different structure that you pointed out as far as the makeup in the Boards and the emphasis, I wonder if there would be any way that the make-up itself or some emphasis in staff structure would be of value in being able to better analyze human factors in an accident.

Admiral ENGEN. Chairman Kassebaum, I long ago learned never to open my mouth until I found out what was really going on, and I would like to have the opportunity to serve on the Board and make my recommendations as we go along. I am truly not yet in a position to know what should be done. Before I make those kinds of comments I would like to have the opportunity to be a member, to participate fully, and work with Chairman Burnett.

Senator KASSEBAUM. Well, that is a wise observation. We try and remember that here but sometimes not too successfully.

Recently some Federal agencies with safety related responsibilities have withdrawn proposed rules intended to improve safety.

Would you feel that the NTSB, in making some recommendations, should follow through in a more active and perhaps vocal way if indeed the agency to which you are making these recommendations either ignores them or takes a reverse position?

Admiral ENGEN. Yes. I think that as I understand the Safety Board Act of 1974, it is in the charter of the safety Board to vocally support safety in transportation, and I think we should be as strong in this respect as we possibly can.

Senator KASSEBAUM. Along this line, the NTSB has historically viewed its mission as being exclusively concerned with safety and has made recommendations based on this point of view. Some of the critics of the agency contend that the Board should be more involved in a cost-benefit analysis before making its recommendation.

What would be your opinion of that view?

Admiral ENGEN. My personal opinion, Chairman Kassebaum, is that the Board should stick to safety. Safety is a principle, and you need to really stick to supporting the elements involved in safety.

Now, I would like to add parenthetically that if you make any pronouncement, I do not care what it is about—safety or anything else, you really should understand what the ramifications of that pronouncement might be. You have to think that out. But, the principal role for the NTSB should be safety.

Senator KASSEBAUM. I believe that recently the Board has been involved in trying to establish a criterion for priority in investigating accidents largely due to the budget restrictions placed on the agency.

Are you familiar with any of the criteria that is under consideration?

Admiral ENGEN. I think I am, yes, I am.

Senator KASSEBAUM. Do you have any particular comment to make on that?

Admiral ENGEN. Budget constraints are very difficult things to live with, sometimes.

Senator KASSEBAUM. True.

Admiral ENGEN. And I guess you have to do what you have to do.

I would hope to articulate the need for support in the budget for the NTSB in order that the Board could in subsequent years walk back the cat in the event that there has been a raising of the accident threshold criteria required to investigate an accident. If the threshold must be raised temporarily, I would hope that subsequently it could be lowered because I do believe that the criteria for safety investigation should remain as low as possible. In other words, you should investigate accidents at the lowest threshold you can.

Senator KASSEBAUM. Do you feel there are some responsibilities that the agency has that, in an effort to meet some of the cost reductions to NTSB, could be moved to another agency without hurting the effectiveness of NTSB. Have you had the opportunity to analyze that?

Admiral ENGEN. Well, it is possible, but I would once again say that the criteria of safety is the most important issue.

If in looking at means of investigating accidents or increasing safety you found that another agency could do a better job, I think in all good conscience you would want to let that responsibility migrate. But you have to ask, I think, that key question: Is safety going to be improved if this were to migrate? And I think you have to look at it on a case by case basis. Additionally, I would not be for such migration if it was not going to increase the importance of safety in all modes of transportation.

Senator KASSEBAUM. Last year the Board entered into an agreement with the Coast Guard giving the Board primary jurisdiction over water accidents potentially involving Coast Guard rules or vessels.

We understand that the Board is still very dependent on the Coast Guard, however, for resources to conduct these investigations.

Do you believe that the current working relationship with these two agencies infringes on the ability to conduct an independent investigation?

Admiral ENGEN. I do not believe that it does. I believe that the mandate is there, and I believe that the NTSB has the authority to exercise to the fullest its maritime investigation authority. I think it is just a matter of accepting the mandate and doing it. I personally very strongly believe that an organization should not investigate itself, and in that context would advocate that the NTSB investigate accidents in which the Coast Guard was involved.

Senator KASSEBAUM. Thank you very much.

For my part, I certainly want to reiterate again that I am pleased with the administration's recommendation of you for this

important post with the qualifications that you bring to it. As a member of the Commerce Committee and Chairman of the Aviation Subcommittee, I also would like to say I am very proud of the work that the NTSB has done in this past year through some very difficult times.

Thank you very much, and all best wishes to you, Admiral Engen.

Admiral ENGEN. Thank you, Madam Chairman. Thank you very much.

Senator KASSEBAUM. Thank you.

We have another witness, Mr. Graves, who is the vice president of the Aircraft Owners and Pilots Association.

Mr. Graves.

STATEMENT OF W. LAWRENCE GRAVES, VICE PRESIDENT, AIRCRAFT OWNERS PILOTS ASSOCIATION

Mr. GRAVES. Madam Chairman, I want to echo the opening statement that you made. We are certainly in agreement with your endorsement of Admiral Engen's candidacy. We in aviation are acutely aware of the fact that the pilot is the first one to the scene of the accident, and so we have a great stake in transportation safety.

Admiral Engen has to be one of the most qualified individuals in the country for this post, and we are glad that he won the nomination.

We also wanted to express our appreciation to the committee for its role in creating the climate in which he could get the nomination. It looks like from here on in the candidates for nomination to the NTSB will have to meet a standard of transportation safety background.

[The statement follows:]

STATEMENT OF W. LAWRENCE GRAVES, VICE PRESIDENT, AIRCRAFT OWNERS & PILOTS ASSOCIATION (AOPA)

Madam Chairman, AOPA is delighted to have the opportunity to appear in support of the nomination of Donald Engen to be a member of the National Transportation Safety Board. We view this hearing to be a landmark in the history of the National Transportation Safety Board and the beginning of a new era in the contribution this agency can make to the field of transportation safety.

We have believed that only with qualified experts in transportation safety serving on the National Transportation Safety Board can the Board reach its potential as the primary federal advocate of transportation safety improvements. It appears to us that the nomination of Donald Engen sets the stage for technical qualifications to be the primary factor in the selection of Board members.

Admiral Engen is well qualified and prepared to assume his duties on the Board. He has the training, the experience and the expertise to make professional judgments on the myriad of transportation safety issues the Board must address each year. He will not be spending his tenure with the Board in a learning capacity.

There are two fundamental reasons for confirming only experienced people to the Board. First, it is important to have qualified people on the Board because safety recommendations must be balanced judgments if they are to be successfully implemented. Those of us in aviation know that the art of airplane design is a constant matter of balancing weight against performance. One could guess that the perfectly safe airplane would be too heavy to fly and too expensive to buy. It is for this reason that we need investigators who understand the need of transportation have similar trade-offs that are required.

Second is the need for the members of the Board to be able to articulate their evaluations and findings in a professional manner within the transportation community so that the recommendations of the Board will more likely see implementation. The public is not well-served if the Board develops good ideas only to be unable

to bring them to fruition if the Board does not have the professional standing to sell its concepts.

We want to especially commend the members of this Committee (particularly you, Madam Chairman, and Senators Cannon and Packwood) for their support of legislation that would impose a statutory requirement that individuals nominated to the NTSB have some background in transportation in transportation safety. You have made a significant contribution to aviation safety in this one simple legislative vehicle and we hope the provision can be enacted into law during this session of Congress.

We look forward to working with Admiral Engen on issues of mutual concern and interest and especially look forward to having someone on the Board that the many technical experts on our staff can deal with on a professional level. AOPA members are among those with the greatest stake in the Board's decisions and we are looking at the NTSB's future with much more confidence.

Senator KASSEBAUM. Thank you very much, Mr. Graves.

Thank you, Admiral Engen.

Admiral ENGEN. Thank you.

[Whereupon, at 9:49 a.m., the committee recessed, subject to the call of the Chair.]

[The following information was subsequently received for the record:]

GENERAL AVIATION MANUFACTURERS ASSOCIATION,
Washington, D.C., June 7, 1982.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Commerce, Science and Transportation, Washington, D.C.

DEAR CHAIRMAN PACKWOOD: Previously, we communicated to you our support of S. 1936 to insure that well-qualified people are appointed to the National Transportation Safety Board. The nomination of Donald Engen well meets this objective.

Admiral Engen is highly qualified for this position as a pilot, manager, business executive and Naval Officer. he exemplifies the type of person that should be appointed to the Board.

We strongly endorse his confirmation and are pleased to support his nomination.

Sincerely,

EDWARD W. STIMPSON,
President.

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